

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

ASHTON WHITAKER, a minor, by his
mother and next friend, MELISSA
WHITAKER,

Plaintiff,

v.

KENOSHA UNIFIED SCHOOL DISTRICT
NO. 1 BOARD OF EDUCATION, *et al.*,

Defendants.

Civ. Action No. 2:16-cv-00943-PP
Judge Pamela Pepper

MOTION TO SET RULE 16 SCHEDULING CONFERENCE

Pursuant to Federal Rules of Civil Procedure 16 and 26(f), and Civil Local Rules 16(a) and 26(a), Plaintiff Ashton Whitaker respectfully moves the Court to set a scheduling conference no later than 30 days from the date of this motion to set a schedule for discovery and trial. Given both sides' interest in resolving this litigation on the merits as soon as possible, all parties' interests will be served by commencing discovery soon. Accordingly, Plaintiff respectfully submits that discovery should proceed during the pendency of Defendants' appeal of the preliminary injunction issued by this Court on September 20, 2016.¹ If this motion is granted, Plaintiff will submit a proposed Fed. R. Civ. P. 26(f) discovery and scheduling plan prior to the scheduling conference for the Court's review and consideration.

¹ Defendants also have petitioned the Seventh Circuit to permit an interlocutory appeal from this Court's denial of their motion to dismiss. However, in light of the Court's decision amending the motion to dismiss order to remove language certifying that order for interlocutory appeal, it is Plaintiff's position that Defendants' petition for an interlocutory appeal now lacks any jurisdictional basis. Plaintiffs will respond to Defendants' petition for interlocutory appeal by the October 11, 2016 deadline set by the Seventh Circuit.

Dated: October 4, 2016

Respectfully submitted,

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** Application for admission to this Court pending*